

MRS. KATHRYN M. BAKER

JANUARY 31, 1956.—Committed to the Committee of the Whole House and ordered to be printed

Mr. LANE, from the Committee on the Judiciary, submitted the following

R E P O R T

[To accompany H. R. 5526]

The Committee on the Judiciary, to whom was referred the bill (H. R. 5526) for the relief of Mrs. Kathryn M. Baker, having considered the same, report favorably thereon with amendment and recommend that the bill, as amended, do pass.

The amendment is as follows:

On page 2, line 1, after the word "Act", strike out the following language: "in excess of 10 per centum thereof".

PURPOSE

The purpose of the proposed legislation is to pay Mrs. Kathryn M. Baker, of Bethel Island, Calif., the sum of \$691.20 in full settlement of all claims against the United States on account of the death of her former husband, S. Sgt. James C. Sipes, who was killed in action on June 10, 1944.

STATEMENT OF FACTS

Sergeant Sipes married Kathryn Ann Meagher on May 20, 1943, in Oregon, Mo. On June 10, 1944, he was killed in action in Normandy. On October 7, 1944, information and forms relating to a claim for 6 months' gratuity pay payable because of the death of Sergeant Sipes were sent to his father. His father returned the forms, stating that his son was survived by a widow, who he believed had remarried, but was unable to give her address.

Sergeant Sipes' widow is the beneficiary of this bill, Mrs. Kathryn M. Baker. It appears that at the time of Sergeant Sipes' death she was receiving an allotment from him, but in spite of the communication by Mr. Sipes referred to above, calling the attention of the Army to the widow's existence, she was apparently not sent the

forms and information concerning the payment of the death gratuity. On June 9, 1953, the widow did make inquiry concerning the gratuity payment. However by the time that the properly executed forms were submitted to the Department the 10-year period for the submission of the claim had expired.

In the light of these circumstances the committee feels that Mrs. Baker should be accorded the relief provided for in the bill. It appears that through some oversight she did not receive the proper notification concerning her rights to the gratuity pay, and that when she did receive the information it was toward the end of the 10-year limitation period. It appears that she did not actually receive the forms until August 24, 1954, and at that time the 10-year period had already run since her husband's death. Therefore the committee recommends that the bill be favorably considered.

The report of the Department of the Army which raises no objection to the enactment of this bill is as follows:

DEPARTMENT OF THE ARMY,
Washington 25, D. C., December 6, 1955.

HON. EMANUEL CELLER,
Chairman, Committee on the Judiciary,
House of Representatives.

DEAR MR. CHAIRMAN: Reference is made to your letter enclosing a copy of H. R. 5526, 84th Congress, a bill for the relief of Mrs. Kathryn M. Baker, and requesting a report on the merits of the bill.

The Department of the Army has considered the above-mentioned bill, which provides as follows:

"That the Secretary of the Treasury is authorized and directed to pay, out of any money in the Treasury not otherwise appropriated, to Mrs. Kathryn M. Baker, of Bethel Island, California, the sum of \$691.20. The payment of such sum shall be in full settlement of all claims of the said Kathryn M. Baker against the United States on account of the death of her former husband, Staff Sergeant James C. Sipes (serial number 37232567), who was killed in action on June 10, 1944."

Records of the Department of the Army show that James C. Sipes was born in Forbes, Mo., on April 8, 1922; that he commenced active duty in the Army in enlisted status on October 17, 1940, being assigned service No. 37232567; that he advanced to the grade of staff sergeant on January 7, 1944; and that he was killed in action in Normandy on June 10, 1944.

On February 3, 1943, while stationed at Fort Sill, Okla., Sergeant Sipes applied for national life insurance in the amount of \$5,000, payable to his parents, Mr. and Mrs. James A. Sipes, of Forest City, Mo. Sergeant Sipes was married to Kathryn Ann Meagher on May 20, 1943, in Oregon, Mo., and on June 1, 1943, he increased the amount of his national service life insurance from \$5,000 to \$10,000 without changing the beneficiary thereof. On September 13, 1943, Sergeant Sipes requested a family allowance to his wife, Mrs. Kathryn Ann Sipes, and it was granted effective September 1, 1943. This family allowance was discontinued effective June 30, 1944, by reason of the death of Sergeant Sipes.

On October 7, 1944, information and forms relating to a claim for 6 months' gratuity pay accruing by reason of the death of Sergeant Sipes and payable under the authority of the act of December 17, 1919 (41 Stat. 367), as amended (10 U. S. C. 903), were forwarded to his father as beneficiary designated to receive such payment. However, by letter dated October 30, 1944, Mr. Sipes returned the forms unexecuted, stating that his son was survived by a widow who he believed had remarried, but he was unable to give her address.

Some time thereafter, by letter to this Department, dated June 9, 1953, Mrs. Kathryn M. Walker stated as follows:

"On June 10, 1944, my husband S. Sgt. James Carroll Sipes was killed in action in Normandy. At that time I was drawing an allotment from him, however his insurance was made out to his parent, James A. Sipes, of Forest City, Mo.

"I have just been informed that as his wife at the time of his death I should have received 6 months' pay as a gratuity payment. I never received this and I do not know if his parents did or not.

"I have since remarried and now reside in California. Could you advise me on this matter?"

Mrs. Walker made further inquiry relating to this matter in July 1954. Claim forms for 6 months' gratuity pay were forwarded to her on August 24, 1954, and her claim therefor was submitted to this Department on or about September 1, 1954. This claim was administratively certified to the General Accounting Office on September 24, 1954, inasmuch as funds from which it was payable no longer were available for disbursement by this Department. This gratuity pay amounts to \$691.20.

By letter dated May 20, 1955, the General Accounting Office advised, pertinently, that—

"The records of this Office indicate that Mrs. Baker's claim [records of this Department show claimant's name as Mrs. Kathryn M. Walker] for this gratuity was not received in this Office within 10 years after the date of death of her late former husband. The act of October 9, 1940 * * * is jurisdictional and precludes this Office from considering a claim unless presented here within the specified time limit. Since Mrs. Baker's claim could not be considered, it properly was returned to her in accordance with the provisions of the act."

The act of October 9, 1940 (54 Stat. 1061; 31 U. S. C. 71a), referred to in the above-quoted letter, provides, pertinently, as follows:

"That every claim or demand * * * against the United States cognizable by the General Accounting Office * * * shall be forever barred unless such claim, bearing the signature and address of the claimant or of an authorized agent or attorney, shall be received in said office within ten full years after the date such claim first accrued * * *."

"SEC. 2. Whenever any claim barred by section 1 shall be received in the General Accounting Office, it shall be returned to the claimant, with a copy of this Act, and such action shall be a complete response without further communication."

The evidence in this case shows that on June 9, 1953, Mrs. Kathryn M. Walker made inquiry of this Department relating to a claim for 6 months' gratuity pay to which she was entitled by reason of her former husband's death on June 10, 1944. However, claim forms therefor were not forwarded to her until August 24, 1954, and her formal claim for such gratuity pay was not received by this Department until on or about September 1, 1954. Subsequently, on September 24, 1954, this claim was certified to the General Accounting Office, but it was denied for the reason that it had not been received in that Office within the 10-year statute of limitation set forth in the act of October 9, 1940, *supra*. Consequently, there is no method in law by which Mrs. Walker may receive this payment.

In view of all the facts and circumstances of this case, the Department of the Army refrains from making any recommendation either for or against the enactment of this bill, preferring to leave to the equitable determination of the Congress the question of whether the relief proposed by this bill should be granted. If the Congress should determine that the claimant is equitably entitled to be awarded compensation in this case the Department of the Army would have no objection to the enactment of this bill.

The cost of this bill, of enacted, will be \$691.20.

The Bureau of the Budget has advised that there is no objection to the submission of this report.

Sincerely yours,

CHARLES C. FINUCANE,
Acting Secretary of the Army.

AFFIDAVIT

Kathryn Meagher Baker, being duly sworn, deposes and says: that her name is Kathryn Meagher Baker. That prior to making this affidavit in 1954 she filed application with the United States Government for 6 months' gratuity payment due her as the surviving widow of S. Sgt. James C. Sipes, ASN 37232567, who was killed in action in Normandy on June 10, 1944.

That the soldier's service insurance was made payable to his father, James A. Sipes, of Forest City, Mo.

That affiant first learned in 1953 that said application should have been made; that affiant then made inquiry to the Department of Army and in 1954 received forms that were duly executed.

This affidavit is made in connection with H. R. 5526 in the House of Representatives before the Judiciary Committee.

KATHRYN MEAGHER BAKER, *Affiant.*

STATE OF CALIFORNIA,
County of Los Angeles, ss:

On this 5th day of January 1956, before me, the undersigned, a notary public named for said county and State, personally appeared Kathryn Meagher Baker, know to me to be the person whose signature is affixed to the written affidavit, and acknowledged to me that she executed same.

Witness my hand and official seal this 5th day of January 1956.

[SEAL]

PHILIP S. SCHUTZ, Notary Public.

EL MONTE, CALIF., September 1, 1954.

To Whom It May Concern:

I was married to James C. Sipes, 37232567, on May 20, 1943, in Oregon, Holt County, Mo. At the time of his death on June 10, 1944, in Europe, I was still his lawful wedded wife. There had been no divorce.

KATHRYN MEAGHER WALKER.

Subscribed and sworn to before me this 1st day of September 1954.

[SEAL]

JACK H. PORTER,

Notary Public in and for the County of Los Angeles, State of California.

WAR DEPARTMENT

CLAIM FOR AMOUNTS DUE DECEASED PERSONNEL
OF THE ARMED FORCES OF THE UNITED STATES
(Act of June 1906. 34 Stat. 750)

WAR DEPARTMENT
Finance Department
Form No. 14
Approved by
Comptroller General
November 2, 1943

Aug. 31, 1954
ENTER DATE FORM IS EXECUTED

James C. Sipes 37-232-567
(NAME AND SERIAL NUMBER)

1. I/WE, the undersigned claimant(s), certify that at the time of death, James C. Sipes was a member of the military or naval forces of the United States and that I (am) /WE (are) the widow of the deceased.
(NAME OF DECEASED) (RELATIONSHIP OR CAPACITY)
2. That the deceased is survived (except as otherwise indicated) by the following:

- (a) Name of widow, if none, so state.

Kathryn M. Walker 12136 E. Fineraven, El Monte, Calif.
(PRESENT ADDRESS)

- (b) IF NO WIDOW SURVIVES, ENTER BELOW:

- (1) The name, age and address of each living child of the deceased. If none, so state.

NAME OF CHILD	AGE	ADDRESS
No Children		

- (2) The name of each dead child of the deceased who left any children now living. If none, so state.

NAME OF DEAD CHILD
No Children

- (c) IF NO WIDOW, CHILD, OR GRANDCHILD SURVIVES, ENTER BELOW THE NAME AND ADDRESS OF EACH PARENT:

NAME OF PARENT	ADDRESS	LIVING OR DEAD
MOTHER		
FATHER		

Has father abandoned support of family? State YES or NO _____

(PLEASE DO NOT FAIL TO SIGN ON REVERSE SIDE)

MRS. KATHRYN M. BAKER

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(d) IF NO WIDOW, CHILD, GRANDCHILD OR PARENT SURVIVES, ENTER BELOW:

- (1) The name, age and address of each living brother and sister of the deceased. If none, so state.

NAME OF BROTHER OR SISTER	AGE	ADDRESS

- (2) The name of each dead brother or sister of the deceased who left children now living and the names, ages and addresses of such children. If none, so state.

NAME OF DEAD BROTHER OR SISTER	NAME OF LIVING CHILD	AGE	ADDRESS

3. Claim is hereby made for any amounts found due the deceased in the settlement of his/her account.

We, the undersigned claimant(s) and witnesses, certify, under all penalties, fines, and forfeitures imposed by law for the making of false or fraudulent claims against the United States or the making of false statements in connection therewith, that the statements made herein have been examined by each of us and that such statements are true to the best of our knowledge and belief.

TWO SUPPORTING WITNESSES ARE REQUIRED

Arthur E. Barker ✓
(Signature of Witness)

217 No New Ave Monterey Park Calif
(Address)

Mrs. Harold P. Barker ✓
(Signature of Witness)

115 No Lincoln Ave Monterey Park Calif
(Address)

Kathryn M. Walker
(Signature of Claimant)
12136 E. Finview, El Monte, Calif.
(Address)

(Signature of Claimant)

(Address)

(Signature of Claimant)

(Address)

(Signature of Claimant)

(Address)

NOTE: If making claim as the executor or administrator of the estate of the deceased, fill in only paragraph 1. In such case, no witnesses are required, but a short certificate of letters testamentary or of administration must be submitted, together with a statement showing (1) in whose interest (heirs or creditors) such letters were taken out and (2) the permanent residence of the deceased at the time of his/her entry into the military or naval service of the United States.

PUBLIC VOUCHER FOR SIX MONTHS' GRATUITY PAY (Act December 17, 1919, 41 Stat. 367, as amended, and regulations pursuant thereto)				1. BUREAU NUMBER	2. D.G. VOUCHER NUMBER
3. APPROPRIATION SYMBOL AND TITLE				4. ACCOUNTS OF	
THE UNITED STATES, DR. TO:	5. NAME OF PAYEE Kathryn M. Walker	ADDRESS (Street & Number, City & State) 12136 E. Pineview El Monte, Calif.			
FOR THE SIX MONTHS' GRATUITY PAY AS THE RESULT OF THE DEATH OR PRESUMED DEATH IN ACCORDANCE WITH A FINDING BY THE SECRETARY OF THE ARMY OR SECRETARY OF THE AIR FORCE OF THE SERVICE PERSON INDICATED HEREUNDER.					
6. SERVICE PERSON (Last name - First name - Middle Initial) Spies, James C.		7. SERVICE NUMBER 37 232 567	8. GRADE S/Sgt	9. DATE OF DEATH 10 Jun 44	(FOR USE OF PAYING OFFICE)
10. PLACE OF DEATH European Area	11. YEARS SERVICE X	12. MONTHLY PAY (including Block 13) \$115.20	13. ADDITIONAL PAY FOR Foreign Service	14. DUE PAYEE \$691.20	
39. CERTIFICATE OF PAYEE (Place an "X" in one of the following boxes, according to your relationship to the decedent)					
I CERTIFY THAT I HAVE NOT RECEIVED THE SIX MONTHS' GRATUITY PAY; THAT					
<input type="checkbox"/> a. I AM <input checked="" type="checkbox"/> HIS WIDOW <input type="checkbox"/> HER WIDOWER. (Check appropriate box. Complete only Block 18a and have Block 18 signed by two certifying witnesses.) <input type="checkbox"/> b. I AM AN UNMARRIED CHILD OF THE DECEDENT; THAT I AM UNDER 21 YEARS OF AGE; THAT THERE IS NO WIDOW (widower) SURVIVING; THAT THE CONTENTS OF BLOCK 16 ARE ACCURATE AS SHOWN. (If payee is a minor at time of preparation of this form, Block 18a must be completed by the duly appointed guardian and documentary proof of guardianship furnished. Complete Blocks 16 and 18a and have Block 18 signed by two certifying witnesses.) <input type="checkbox"/> c. I AM THE <input type="checkbox"/> FATHER <input type="checkbox"/> MOTHER <input type="checkbox"/> BROTHER <input type="checkbox"/> SISTER (Check appropriate box) OF THE DECEDENT; THAT THERE IS NO WIDOW (widower), UNMARRIED CHILD UNDER 21 YEARS OF AGE, OR UNMARRIED DEPENDENT CHILD OVER 21 YEARS OF AGE SURVIVING. (Complete Blocks 16 and 18a and have Block 18 signed by two certifying witnesses.) <input type="checkbox"/> d. I AM AN UNMARRIED CHILD OF THE DECEDENT; THAT I AM OVER 21 YEARS OF AGE; THAT I AM DEPENDENT UPON THE ABOVE SERVICE PERSON FOR SUPPORT; THAT THERE IS NO WIDOW (widower) SURVIVING; THAT THE CONTENTS OF BLOCKS 16 AND 17 ARE ACCURATE AS SHOWN. (Complete Blocks 16, 17, and 18a and have Block 18 signed by two certifying witnesses.) <input type="checkbox"/> e. THERE IS NO WIDOW (widower) UNMARRIED CHILD UNDER 21 YEARS OF AGE, OR UNMARRIED DEPENDENT CHILD OVER 21 YEARS OF AGE SURVIVING; THAT I AM DEPENDENT UPON AND/OR HAVE AN INSURABLE INTEREST IN THE SERVICE PERSON AS SHOWN IN BLOCK 17. I FURTHER CERTIFY THAT I AM THE _____ STATE RELATIONSHIP OF THE DECEDENT. (Complete Blocks 16, 17, and 18a and have Block 18 signed by two certifying witnesses.)					
18. LIST CHILDREN OF THE DECEDENT (If none, so state. Use reverse side if more space is needed)					
NAME ADDRESS					
no. Children					
17. PROOF OF DEPENDENCY OR INSURABLE INTEREST (Do not complete this block unless you checked either item 15d or 15e. The reverse side of this form may be used to report any additional facts in order to show your dependency or an insurable interest.)					
MARITAL STATUS (Check one) <input type="checkbox"/> MARRIED <input type="checkbox"/> SINGLE	AGE	OCCUPATION	VALUE OF PROPERTY OWNED BY YOU	YOUR AVERAGE MONTHLY INCOME FROM ALL SOURCES	
AGE OF YOUR SPOUSE	OCCUPATION OF YOUR SPOUSE	VALUE OF PROPERTY OWNED BY YOUR SPOUSE	APPROXIMATE MONTHLY CONTRIBUTION OF ANY KIND MADE FOR YOUR SUPPORT BY THE ABOVE DECEDENT DURING THE 12 MONTHS PRIOR TO HIS (her) DEATH		
38. CERTIFICATE OF WITNESSES TO SIGNATURE OF PAYEE (Two witnesses are required)			38a. SIGNATURE OF PAYEE (Must be affixed in the presence of two witnesses)		
I CERTIFY THAT I AM PERSONALLY WELL ACQUAINTED WITH THE ABOVE-NAMED PAYEE, THAT I HAVE READ THE ABOVE STATEMENT WHICH WAS SIGNED IN MY PRESENCE, AND THAT SAID STATEMENT IS TRUE TO THE BEST OF MY KNOWLEDGE AND BELIEF.			Kathryn M. Walker		
SIGNATURE AND ADDRESS OF FIRST WITNESS ✓ Arthur E. Baker 217 No. Hansen Ave Montebello, Calif.		SIGNATURE AND ADDRESS OF SECOND WITNESS Mrs. Nora P. Barker 115 N. Lincoln Ave Montebello, Calif.		ADDRESS OF PAYEE 12136 E. Pineview El Monte, Calif.	
39. ADMINISTRATIVE CERTIFICATE					
I CERTIFY THAT THE ABOVE-NAMED PAYEE, IF OTHER THAN WIDOW, WIDOWER, OR UNMARRIED CHILD, HAS BEEN DESIGNATED AS BENEFICIARY BY THE DECEDENT. THAT THE DESIGNATION DESCRIBED IN THIS VOUCHER IS CORRECT AS SHOWN BY THE RECORDS OF THIS OFFICE; THAT THE PAYEE NAMED IS AUTHORIZED TO RECEIVE THE SIX MONTHS' GRATUITY PAY ON ACCOUNT OF THE DEATH OF THE DECEDENT; AND THAT PAYMENT THEREOF IS APPROVED IN THE AMOUNT OF \$ 691.20 DATE JUN 1954					
PAID BY CHECK DRAWN ON TREASURER OF THE UNITED STATES IN FAVOR OF PAYEE NAMED ABOVE		SIGNATURE		DATE	
CHECK NUMBER	AMOUNT OF CHECK	DATE OF CHECK		TYPED NAME AND TITLE	
NOTE: Penalty for presenting false claims or making false statements in connection with claims: Fine of not more than \$10,000 or imprisonment for not more than five years or both. Act 25 June 1948, 18 U.S.C. 287, 1001.		VERIFIED			

This Certifies that

James Carroll Lipes of
Forest City State of Missouri
and Kathryn Ann Meagher of
Oregon State of Missouri

Were United in



Holy Matrimony



At Oregon, Mo., on the Twentieth
day of May A.D. 1943, by authority
of a License bearing date the Twentieth day of
May A.D. 1943, and issued by the
Recorder of Deeds of Holt County, Missouri.
Witness my signature.

Rev. Fred W. Manshardt
Pastor Evangelical Church

Witnesses

Howard Pettet

Marguerite Johnson



[Back of photocopy]

FEBRUARY 1944.

STATE OF MISSOURI,

County of Jackson, ss:

I, E. H. Hapke, a notary public in and for said county, do hereby certify that this is a true and correct photocopy of marriage certificate from the original.

E. H. HAPKE, *Notary Public*.

My commission expires September 3, 1945.

James C. Sipes.

Application No. 3162232.

Serial No. 37232567.

